

AREA PLAN COMMISSION OF TIPPECANOE COUNTY

ORDINANCE COMMITTEE

MINUTES OF PUBLIC MEETING

DATE.....September 4, 2002
TIME.....4:45 P.M.
PLACE.....COUNTY OFFICE
BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

Jan Mills
Karl Rutherford
Jack Rhoda
Steve Schreckengast
Mark Hermodson
KD Benson

STAFF PRESENT

James Hawley
Sallie Fahey
Bernard Gulker
Kathy Lind
Joanna Grama, Atty.
Robert A. Mucker, Atty.

Jan Mills called the meeting to order.

I. APPROVAL OF JULY 2002 MINUTES

Jack Rhoda moved to approve the minutes from July 16, 2002. Steve Schreckengast seconded and the motion was carried by voice vote.

II. RURAL ESTATE ROADS: Discussion of roads within RE subdivisions: should the roads derive access from public streets?

Sallie Fahey briefed the committee on an upcoming APC agenda item – the first RE rezone and subdivision. She presented the subdivision plat. She stated that there is nothing in the RE Ordinance to prevent having access from a public street, to an existing private drive and then to an RE outlot with cul-de-sac to serve the 2 new lots. She said that the County Highway Department is concerned about this situation. She said this case does not particularly present a problem, but in the extreme we could have a situation where everyone in an existing development wants to create 2 lots out of 1. That has the effect of doubling the density and accessing through an old easement not built to RE standards. Sallie Fahey also stated that it makes sense to her to be able to increase density at existing developments because less undersloped land would be used to create home sites. The problem is only with access in her opinion. She asked the committee for direction on how to proceed.

James Hawley added that this is also a public safety issue.

Jan Mills clarified that the committee needed to address the language of private drive in an RE subdivision.

James Hawley stated a decision is needed to determine if it is intended to allow things off of the ends of substandard roads, without any improvement out to the public road; or intended that the roadway to the public road is inadequate and thus the land is ineligible for RE development.

Sallie Fahey said that the Ordinance clearly states; that for every RE development a new RE road must be built. The Ordinance does not specify that the road must connect directly to a county maintained road and it could come off of a private road.

Jack Rhoda asked if the first 400 feet of private driveways were publicly maintained.

Sallie Fahey replied no, but in this specific situation there is between 400-600 feet that is a subdivision street accepted by the county for maintenance. She added that where the subdivision street turns a corner it also continues straight as a private drive.

Mark Hermodson stated that it was his understanding that the access for the RE drives, up to the county roads, would be up to standard. He encouraged increasing the density, where appropriate, by way of the RE zone.

Jan Mills mentioned that there may be cases where there is an RE development off of a road that is not up to RE standards.

Mark Hermodson expressed his opinion that a development's road should be brought up to those standards.

Jan Mills asked if a gravel road off of an RE development would have to be paved.

Sallie Fahey asked if she meant a county gravel road.

Jan replied that situation would certainly happen in the future.

Sallie Fahey answered yes, which would definitely happen someday. She stated that the main concern, at this point, was a county maintained road versus a private drive. She said that the question is: Can an RE road

come off of a private drive versus a county maintained road regardless of that private drive's standard?

Steve Schreckengast asked if a planned development could be built on a private road.

James Hawley replied that it depended on if the road was going to be public or private. He said that it would have to be examined to make sure it was safe.

Steve Schreckengast asked for confirmation that the main concern was safety. He continued to say that this development was a positive situation. He stated that he does not think it is feasible to replace 600 feet of good private drive to access two homes. He asked if 600 feet was accurate.

Sallie Fahey replied that the actual distance was not known. She stated that in this situation that was not likely to happen, due to the division of easement ownership.

James Hawley stated that this is a concern due to the rezone. He said that if the rezone required an improvement out to the public road, then all of the neighbors could weigh in on further development in that division. He added that was the way it is supposed to happen in rezones.

Jan Mills affirmed that they could weigh in regardless of the road. The difference being, who was paying for it.

Steve Schreckengast commented that they could stop it by not allowing anything to be done to the private road that they access.

James Hawley confirmed that neighborhoods usually do that when they do not want density to increase.

Steve Schreckengast expressed his concern that prime property would be overlooked because due to the additional cost of constructing standard roads. He asked staff if an area was not suitable for RE zoning, unless the entire road is brought up to standards. He gave an alternative for this situation stating that an area is suitable, in spite of the 600-foot drive, so long as there are easements to access those lots.

James Hawley replied that all of those necessary parts might not be able to be affected for a complete RE subdivision. He said that the obstacle would be if it was all off site, you could not get an easement in.

Steve Schreckengast stated that if you could not fit an easement or right-of-way, then you couldn't subdivide.

James Hawley stated that is what the concern is. He said that it is not an individual, but all the neighbors that would have to participate.

Steve Schreckengast suggested this could be a condition. He said that in this situation, all four owners would have to participate, since they own the private drive.

Sallie Fahey stated that in this case, only the first two lots are being affected. She said that only two owners out of the four would have to agree.

Steve Schreckengast asked if an easement could be a condition in the subdivision process.

James Hawley said that RE zoning standards dictate outlots and not easements.

Sallie Fahey pointed out this particular situation is: county road, county subdivision road, private drive and easement, turnaround in an outlot, built to RE standards, to serve the two lots.

James Hawley stated that clarification was needed if safe and adequate access was to be provided.

Jan Mills asked if the county has liability on a private drive.

James Hawley replied that the USO requires standards that address public health, safety and welfare issues.

Jan Mills agreed, inside the subdivision.

James Hawley stated that if you cannot get there, then a situation has been created that is unsafe for citizens.

Sallie Fahey expressed some concerns of the highway department. She stated that no one, Area Plan, County Commissioners or Highway Department, has authority through the subdivision process, to force an upgrade of that easement at the county road. She said that if an RE road was built from the county road, all the way through the RE subdivision, then an upgrade could be required.

Jan Mills asked for confirmation that the Highway Department was only concerned with the entrance to the county road.

James Hawley informed the committee that there have been inquiries for some subdivision streets to be taken over for maintenance by the county. He said that if these streets meet the rural estate subdivision standards, it is recommended that the county take them over. He stated that this could cause areas of no maintenance or not being able to do anything to them.

Steve Schreckengast expressed his opinion that the commissioners should not accept any rural estate subdivision if the roads are not put in to county standards. He then asked for the commissioners' input on that topic.

KD Benson stated that they do get calls, and when they do they instruct them to fix them.

James Hawley said that with this new standard it would be accepted for maintenance, as a public road.

Karl Rutherford pointed out that would be at the commissioners' discretion.

Steve Schreckengast pointed out that commissioners were under no obligation, at all.

John Knochel stated that the Highway Department recommends to the commissioners which roads to take into the county system.

James Hawley said if the plat was dedicated and built to county standard.

Steve Schreckengast stated it would be no different than taking over a planned development road.

John Knochel agreed with James Hawley's statement of the road being platted, dedicated and built to county standards, then the Highway Department might recommend taking it over.

James Hawley pointed out that they would have to, because it has already been specified that those are the things that they would take over.

KD Benson pointed out the need to go down a private road to get there.

John Knochel agreed that was the whole problem. He stated that the Highway Department would have access over a road that has not been built to standard, in order to get to the subdivision. He mentioned that there are subdivisions that the county school bus system does not reach, because they are not County maintained.

Jan Mills asked for confirmation that he was asking for a language change to include those roads.

John Knochel pointed out that if there is a stretch of road that is not built to standard, the Highway Department will not pick it up and therefore the bus system will not travel it.

Jack Rhoda stated there is still the issue of health and safety, rescue teams and fire trucks. He expressed his concern that those citizens be adequately protected.

Jan Mills asked for additional comments from the commission, staff and public.

Pat Cunningham, Vestor & Associates, expressed his lack of understanding of the problem. He stated that a rural rezone was up for hearing and that if there was an access, safety issue and danger to the public, he hoped that the commission would simply deny the rezone.

Robert Mucker stated that if it complies with the ordinance, there is no option other than to approve it. He also said that the subdivision complicates the issue further because the same rule may still apply. He pointed out that the rezone is part of the subdivision, so when it comes time for the subdivision, if you have already approved it, you cannot turn it down.

Steve Schreckengast pointed out that in this situation, the location was ideal for two new lots. He then asked staff and commission what needs to be done to make it happen. He asked if getting it zoned to R1 would be an option.

James Hawley stated the adjacent property is R1.

Jan Mills stated that then the road would have to be improved.

Robert Mucker stated that this would not be affected because they would come in under what the ordinance says today.

Steve Schreckengast reiterated that the location is ideal and there needs to be a way to make it happen. He stated that the determination of recommendation on the rezone should be based on the access and what is reasonably possible.

Jack Rhoda, stated that the fact public safety was even brought up, should not be left up to commissioners or fire department.

Steve Schreckengast asked Jack Rhoda whom he felt it should be left to.

Jack Rhoda stated that it should be established with an ordinance.

Jan Mills asked if they can turn down a rezone to RE, simply because there is not an adequate road.

Robert Mucker stated they were headed to slippery ground, based on the Sheffield case. He said that it did not matter if it starts with the subdivision or with the zoning, the sole purpose is still a subdivision.

Jan Mills clarified that Robert Mucker is suggesting specific language addressing this issue in the ordinance.

Robert Mucker said that is the safe way to go.

Steve Schreckengast asked for clarification on the RE zoning process. He suggested having rezones reviewed for public safety, especially the fire department, prior to going before the commission.

James Hawley said that most of the volunteer fire departments did not have the time, manpower or interest to accomplish that.

Jan Mills asked if there was any agreement on having staff draw up some language for the committee to review.

Karl Rutherford suggested not voting on anything today because more information needs to be gathered.

Sallie Fahey stated that staff is not asking for a vote, just on some direction on how to proceed.

Jan Mills asked staff to put together a report on the staff's perspective of the solutions available.

James Hawley said staff was hoping for some suggestions on what those solutions might be.

Jack Rhoda said that all roads that access an RE zone must meet RE standards.

Jan Mills said she was concerned with that due to the number of roads already in existence that do not meet the standard. She suggested that they might be eliminating some prime property, because they can't get to the public road.

Discussion on language.

Sallie Fahey stated that a compromise might be that improvements must be brought up to RE standard, but could stay in an easement and not be in an outlot.

James Hawley stated that would preclude turning over of the road for public maintenance.

Joseph T. Bumbleburg, PO Box 1535 Lafayette, IN, suggested a review of the Unified Zoning Ordinance, which created and amended the RE zone, and the separate Subdivision Ordinance, which set the standards for that zone. He also suggested having a separate RE zone as a zoning category defined.

James Hawley pointed out they would also have to look at the rural estate zone, because it was created solely for a rural estate subdivision.

Sallie Fahey said there are three alternatives she could see. The first; it does not matter if an RE development and road comes off a private easement or drive, the second; it does matter, calling for full RE road from the county road to and through the subdivision, or three; something similar to her prior proposal.

Jan Mills asked if anything states, at a certain point of population, a driveway must be upgraded from an 8-foot to 16-foot.

Sallie Fahey replied, not once you leave the county right-of-way.

Jan Mills asked if they had a consensus of what they wanted Sallie Fahey to address.

Discussion on Sallie Fahey researching more information on all three options and Robert Mucker researching the “Sheffield” issue as it relates to RE zones and subdivisions.

III. DIGITAL SUBMISSION STANDARDS

James Hawley briefed committee on his proposed zoning ordinance and subdivision ordinance amendments. These proposed amendments state that a digital submission be required for filing final plats, with exceptions for pre-existing cases. He asked that these be brought to the commissioners at November’s meeting for adoption.

KD Benson replied not in November, but sometime in the next year.

James Hawley asked if it could be deferred to a later, non-specified date.

KD Benson suggested encouraging this to customers from this point forward.

Karl Rutherford suggested putting this off for a couple of months.

KD Benson suggested the first of the year.

IV. ILLEGAL BUSINESS IN RURAL DISTRICTS:

Jan Mills asked James Hawley for background.

James Hawley deferred to the commissioners.

Karl Rutherford commented changing the language to include the word “predominantly”. He suggested including a percentage standard.

Mark Hermodson commented that it is hard to do without discriminating against someone.

Joseph T. Bumbleburg agreed with Karl Rutherford on changing the language. He said that the ordinance has become an ends and not a means. He stated that the language is very overpowering and too restrictive. He suggested looking at items A-G under Rural Home Occupations for language changes and not limit themselves to just a couple items. He advised against discussion on spot-zoning.

Al Levy stated that Rumpza’s entire inventory is imported. He said that Summers has 2 employees who report to his house every day and the neighbors’ complaints have been mostly about the noise from loading the truck. In regard to Curtis, there is a square footage issue in terms of storing the equipment.

John Knochel stated that he did not want to see these small businesses close, but feels the situation has gotten way out of hand. He commented on the large number of calls that the Commissioners have received over the summer.

TAPE ENDED.

Grace Boone 4701 65 53 West

Mark Hermodson commented on seeking legal counsel, to review the Rural Outdoor Sign Ordinance in reference to non-for-profit, and off premise rural signs.

These issues will be revisited at the 4:45 pm meeting on October 2, 2002.

V. EVENT-ORIENTED SIGNAGE

VI. CITIZEN COMMENTS

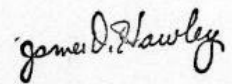
Meeting was adjourned at

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



James D. Hawley, AICP
Executive Director